

Ward: ALL

Portfolio: ALL

FROM: Portfolio Holder for Neighbourhood Services **Date:** 17 December 2018

SUBJECT: Waste Board Constitution and Membership 2019/20

Internal Use Only: Please complete sign off boxes below prior to submission to Democratic Services			
Report Sign off	Seen by:	Name	Date
	Legal	Lesley Dolan	06/12/2018
	Finance	Paul Deal	06/12/2018
	Chief Executive Officer/ Deputy Chief Executive	Stuart Brown/ Donna Nolan	06/12/2018
	Group Manager	N/A	
Summary:	<p>The report sets out proposed revisions to the Waste Board's constitution and membership for 2019/20 as a result of the future amalgamation of Taunton Deane Borough Council and West Somerset Council to create the new Somerset West and Taunton local authority.</p> <p>The proposed changes to the constitution and board membership will require the Board to recommend to all partner authorities the dissolution of the current Board and agreement to establish a new Waste Board with an amended constitution to reflect the revised membership. Subject to the Board's approval to the proposals within this report.</p>		
Recommendation:	<p>That Council:</p> <ol style="list-style-type: none"> 1. Endorse the proposed revision to the draft Constitution (Appendix A) for the Somerset Waste Board and recommend this for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019. 2. Delegate authority to the Board's Treasurer in consultation with the Administering Authority's Monitoring Officer to update the Inter-Authority Agreement (IAA) to reflect the various changes agreed previously by the Board. The Board is further requested to agree for the amended IAA to be recommended for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019. 3. Recommend to the partner authorities and the new Somerset West and Taunton Shadow Authority that with effect from 1 April 2019 the current Board and its membership (comprising six partner authorities) is dissolved and to then agree the formation 		

	<p>of a new Somerset Waste Board (comprising five partner authorities) and appoint members to that Board.</p> <p>4. Delegate authority to the Monitoring Officer of the Administering Authority to take forward the above recommendations in conjunction with the partner authorities and Somerset West and Taunton Shadow Authority.</p>
Direct and/or indirect impact on service delivery to our customers and communities	None for the purposes of this report.
Financial Implications:	None for the purposes of this report.
Legal Implications:	As outlined in this report.
Crime and Disorder Implications:	None for the purposes of this report.
Equalities Implications:	None for the purposes of this report.
Risk Assessment and Adverse Impact on Corporate Actions:	This report mitigates risks associated with the creation of the new Somerset West and Taunton local authority in terms of the Waste Board Constitution and membership 2019/20.

1. BACKGROUND

- 1.1 Since 1992 the Somerset Waste Partnership has improved working arrangements in waste management across the County. In 2007, the partner authorities (comprising Somerset County Council, Mendip District Council, Sedgemoor District Council, South Somerset District Council, Taunton Deane Borough Council and West Somerset Council) agreed to establish the Somerset Waste Board as a Joint Committee with an Administering Authority. The Partner Authorities delegated responsibilities for waste collection, waste recycling, and waste disposal to the Waste Board.
- 1.2 The legal powers to constitute a Joint Committee and discharge the Partner Authorities' statutory waste functions and responsibilities to it are in Sections 101 and 102 of the Local Government Act 1972, and the Local Authorities (Arrangement for the Discharge of Functions) (England) (Amendment) Regulations 2001 made under Section 20 of the Local Government Act 2000.

A Joint Committee does not have a separate legal personality and as such is not able to hold contracts or employ staff. In this instance a well-established solution is that one of the authorities becomes the 'administering authority' for the purpose of holding contracts and employing staff.
- 1.3 The Board has a Constitution and there is also an Inter-Authority Agreement which sets out how the partners work together and how costs are shared amongst partners.
- 1.4 The Constitution sets out the membership of the Waste Board, its functions and voting arrangements. Each of the six Partner Authorities is represented on the Board by two Elected Members, one of whom is the Portfolio Holder for Waste and/or Environment functions. There are 12 elected members on the Waste Board and they are supported by officers from Somerset Waste Partnership, the Administering Authority (Somerset County Council) and from partners.

2. FUTURE CONSTITUTIONAL MATTERS FOR THE BOARD

- 2.1 The Board received reports in 2017 and in June 2018 regarding the amalgamation of Taunton Deane Borough Council and West Somerset Council.
- 2.2 The Government has approved the Structural Change Order relating to the two councils which has resulted in the formation of a Shadow Authority during 2018 pending the creation of a new single authority named Somerset West and Taunton in April 2019. Shadow Authority arrangements are designed to manage the transition from two councils into one. The Shadow Authority consists of all 84 Members of both existing councils and is an entity in its own right.
- 2.3 The Somerset West and Taunton (Local Government Changes) Order 2018 provides the new Shadow Authority with powers to take decisions to enable the new Council to be operational from 1 April 2019. All property, liabilities, rights and responsibilities of Taunton Deane Borough Council and West Somerset Council

shall on the reorganisation date (1 April 2019) transfer to the new Council as set out in Part 3 of the Local Government (Boundary Changes) Regulations 2018.

- 2.4 Following the approval to the Structural Change Order, work has progressed to review the Constitution and Inter Authority Agreement (IAA). The process for this is set out in clause 20 of the IAA and section 16 of the Constitution.
- 2.5 Section 16 of the Board's Constitution outlines that if it is agreed by all of the Partner Authorities that another local authority should be permitted to join the Board, then pursuant to Regulation 11(2)(c) of the 2000 Regulations, the Board shall be dissolved with a view to a new board being established and a replacement constitution on similar terms to the existing Constitution (as varied by agreement of the proposed Partner Authorities) being completed. Essentially this requires the Partner Authorities to approve the dissolution and replacement of the current IAA and Constitution, along with the membership of the Board to coincide with the creation of the new authority.
- 2.6 The proposed revised Constitution and revised IAA are set out in Appendices 1 and 2. The key revisions as a result of the creation of the new authority are:
- A revised the membership of the Board to replace references to Taunton Deane and West Somerset Councils with the new authority.
 - The Board membership will reduce from 12 members to 10 members (still reflecting two members per partner authority).
 - The new authority will be entitled to two representatives.
 - The need to review the scrutiny arrangements and in particular the membership of the Joint Scrutiny Panel.
 - Potentially revise the quorum requirements from six members to five members, with the requirement for at least one member from each of three (currently four) different Partner Authorities.
- 2.7 The revised IAA requires further amendments in order to ensure that the various changes agreed by the Board overall several years are reflected in the version to be considered by Partner Authorities and the new Shadow Authority. The most recent change was agreed by the Board in September 2018 in relation to the formation of the new Somerset West and Taunton Council.
- 2.8 The proposed membership of the new Somerset Waste Board from 1 April 2019 is Somerset County Council, Mendip District Council, Sedgemoor District Council, South Somerset District Council and Somerset West and Taunton Council i.e. the new partner authorities.
- 2.9 During 2018/19, in addition to Taunton Deane and West Somerset Councils being consulted, the shadow authority will also need to be involved in the development of the 2019/20 Annual Budget and the Business Plan.
- 2.10 Subject to the Board's approval to the proposed revisions to the Constitution and IAA, it will be necessary for these to be recommended to each of the Partner

Authorities to dissolve the current Board and to approve the creation of the new Somerset Waste Board from April 2019.

3. RECOMMENDATION

That Council:

1. Endorse the proposed revision to the draft Constitution (Appendix A) for the Somerset Waste Board and recommend this for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019.
2. Delegate authority to the Board's Treasurer in consultation with the Administering Authority's Monitoring Officer to update the Inter-Authority Agreement (IAA) to reflect the various changes agreed previously by the Board. The Board is further requested to agree for the amended IAA to be recommended for approval by all partner authorities and the new Somerset West and Taunton Shadow Authority by 1 April 2019.
3. Recommend to the partner authorities and the new Somerset West and Taunton Shadow Authority that with effect from 1 April 2019 the current Board and its membership (comprising six partner authorities) is dissolved and to then agree the formation of a new Somerset Waste Board (comprising five partner authorities) and appoint members to that Board.
4. Delegate authority to the Monitoring Officer of the Administering Authority to take forward the above recommendations in conjunction with the partner authorities and Somerset West and Taunton Shadow Authority.

Contact Officer: Donna Nolan
Ext No: 41210
E-mail: donna.nolan@mendip.gov.uk

Background Papers

Waste Board Constitution
Somerset Waste Partnership Inter Authority Agreement
The Somerset West and Taunton (Local Government Changes) Order 2018